

**SSB 5899** - H AMD TO CJC COMM AMD (H2837.3) **494**  
By Representative O'Brien

ADOPTED 04/13/2005

1 On page 8, line 6 of the amendment, after "who" strike "has been"  
2 and insert "~~((has been))~~ may be"

3 On page 12, after line 35 of the amendment, insert the following:

4 "Sec. 9. RCW 10.97.050 and 1990 c 3 s 129 are each amended to read  
5 as follows:

6 (1) Conviction records may be disseminated without restriction.

7 (2) Any criminal history record information which pertains to an  
8 incident that occurred within the last twelve months for which a person  
9 is currently being processed by the criminal justice system, including  
10 the entire period of correctional supervision extending through final  
11 discharge from parole, when applicable, may be disseminated without  
12 restriction with the exception of a record being disseminated in  
13 response to a request for a conviction record under RCW 43.43.832. A  
14 request for a conviction record under RCW 43.43.832 shall not contain  
15 information for a person who, within the last twelve months, is  
16 currently being processed by the criminal justice system unless it  
17 pertains to information relating to a crime against a person as defined  
18 in RCW 9.94A.411.

19 (3) Criminal history record information which includes  
20 nonconviction data may be disseminated by a criminal justice agency to  
21 another criminal justice agency for any purpose associated with the  
22 administration of criminal justice, or in connection with the  
23 employment of the subject of the record by a criminal justice or  
24 juvenile justice agency. A criminal justice agency may respond to any  
25 inquiry from another criminal justice agency without any obligation to  
26 ascertain the purpose for which the information is to be used by the  
27 agency making the inquiry.

28 (4) Criminal history record information which includes  
29 nonconviction data may be disseminated by a criminal justice agency to

1 implement a statute, ordinance, executive order, or a court rule,  
2 decision, or order which expressly refers to records of arrest,  
3 charges, or allegations of criminal conduct or other nonconviction data  
4 and authorizes or directs that it be available or accessible for a  
5 specific purpose.

6 (5) Criminal history record information which includes  
7 nonconviction data may be disseminated to individuals and agencies  
8 pursuant to a contract with a criminal justice agency to provide  
9 services related to the administration of criminal justice. Such  
10 contract must specifically authorize access to criminal history record  
11 information, but need not specifically state that access to  
12 nonconviction data is included. The agreement must limit the use of  
13 the criminal history record information to stated purposes and insure  
14 the confidentiality and security of the information consistent with  
15 state law and any applicable federal statutes and regulations.

16 (6) Criminal history record information which includes  
17 nonconviction data may be disseminated to individuals and agencies for  
18 the express purpose of research, evaluative, or statistical activities  
19 pursuant to an agreement with a criminal justice agency. Such  
20 agreement must authorize the access to nonconviction data, limit the  
21 use of that information which identifies specific individuals to  
22 research, evaluative, or statistical purposes, and contain provisions  
23 giving notice to the person or organization to which the records are  
24 disseminated that the use of information obtained therefrom and further  
25 dissemination of such information are subject to the provisions of this  
26 chapter and applicable federal statutes and regulations, which shall be  
27 cited with express reference to the penalties provided for a violation  
28 thereof.

29 (7) Every criminal justice agency that maintains and disseminates  
30 criminal history record information must maintain information  
31 pertaining to every dissemination of criminal history record  
32 information except a dissemination to the effect that the agency has no  
33 record concerning an individual. Information pertaining to  
34 disseminations shall include:

- 35 (a) An indication of to whom (agency or person) criminal history  
36 record information was disseminated;
- 37 (b) The date on which the information was disseminated;
- 38 (c) The individual to whom the information relates; and

1 (d) A brief description of the information disseminated.

2 The information pertaining to dissemination required to be  
3 maintained shall be retained for a period of not less than one year.

4 (8) In addition to the other provisions in this section allowing  
5 dissemination of criminal history record information, RCW 4.24.550  
6 governs dissemination of information concerning offenders who commit  
7 sex offenses as defined by RCW 9.94A.030. Criminal justice agencies,  
8 their employees, and officials shall be immune from civil liability for  
9 dissemination on criminal history record information concerning sex  
10 offenders as provided in RCW 4.24.550.

11 NEW SECTION. **Sec. 10.** A new section is added to chapter 43.43 RCW  
12 to read as follows:

13 When the Washington state patrol disseminates conviction record  
14 information in response to a request under RCW 43.43.832, it shall  
15 clearly state that: (1) The conviction record data does not include  
16 information on civil adjudications, administrative findings, or  
17 disciplinary board final decisions and that all such information must  
18 be obtained from the courts and licensing agencies; (2) the conviction  
19 record that is being disseminated includes information for which a  
20 person is currently being processed by the criminal justice system  
21 relating to only crimes against a person as defined in RCW 9.94A.411  
22 and that it does not include any other current or pending charge  
23 information for which a person could be in the current process of being  
24 processed by the criminal justice system; and (3) an arrest is not a  
25 conviction or a finding of guilt."

26 Correct the title.

EFFECT: Adds a provision to state that any business or  
organization (that provides services to persons with a developmental  
disability, vulnerable adults, persons with a mental illness, or  
children) who requests a criminal background check on an employee or  
volunteer may receive conviction data as well as any current  
information relating to pending charges that the person may have so  
long as those charges ONLY relate to a "crime against a person." The  
WSP shall not provide those organizations with any other criminal

background information relating to pending charges unless the person has been convicted.

Requires the WSP to put a clear notice on all background check records that are distributed to such businesses or organizations that state that the information being provided: (1) Does not include information on civil adjudications, administrative findings, or disciplinary board final decisions and that all such information must be obtained from the courts and licensing agencies; (2) only includes information on pending charges which involve a "crime against a person" and does not include any other current or pending charges for which the person could have been arrested for; and (3) states that an arrest is not a conviction or a finding of guilt.

Defines "current" information as any data relating to the person being arrested or currently being processed by the criminal justice system within the preceding 12 months.

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